

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CIVIL ACTION NO. 05-10286-PBS

**DOMINIC DIMODICA,
Plaintiff,**

v.

**ROBERT MURPHY, *et al.*,
Defendants.**

**DEFENDANTS' STATUS REPORT TO THE COURT
AND MOTION TO AMEND ORDER
(JOINED BY PLAINTIFF)**

Defendants Robert Murphy, Kathleen Dennehy, and the Massachusetts Department of Correction submit this status report to the Court.

1. On July 26, 2007, the Court, Saris, J., held a status conference and directed the defendants to provide the Court with a list of proposals accepted and rejected by September 15, 2007.
2. On August 8, 2007, the undersigned counsel for the defendants met with Jennifer Serafyn, plaintiff's counsel, and Dr. Zeizel. Mark Gillis, plaintiff's guardian ad litem, participated by telephone conference. It was agreed that Dr. Zeizel would provide a second report to make specific treatment proposals by August 20, 2007. Counsel, Mr. Gillis and Dr. Zeizel agreed to a second meeting on August 28, 2007, to discuss Dr. Zeizel's recommendations.
3. Apparently due to his other commitments, Dr. Zeizel was not able to provide his second report until August 30, 2007. Counsel, Dr. Zeizel and Mr. Gillis agreed to postpone their meeting to September 6, 2007.

4. In the defendants' counsel's opinion, Dr. Zeizel's second report did not contain sufficiently specific recommendations. At the September 6, 2007 meeting, counsel, Dr. Zeizel and Mr. Gillis discussed a number of possibilities. During this discussion, it became apparent that the parties need additional information so that Dr. Zeizel can propose, and the defendants can evaluate, specific recommendations. To that end, the parties have agreed to share additional information in three areas: (1) updated records relating to the plaintiff;¹ (2) more information about the sex offender treatment program that is currently offered; and (3) more information about the plaintiff's functioning.
5. By letter dated September 13, 2007, defendants' counsel has provided the plaintiff's counsel, Mr. Gillis and Dr. Zeizel with updated records and relevant portions of the sex offender treatment contract. In addition, counsel, Mr. Gillis and Dr. Zeizel have scheduled a meeting for September 28, 2007, in order that Dr. Zeizel may meet with representatives of Forensic Health Services, Inc. ("FHS"), the vendor that provides sex offender treatment at the Treatment Center. It is anticipated that the clinical director and the program director, both of whom are doctorate level clinicians, will attend the meeting. Further, the parties have agreed that FHS will conduct an assessment of the plaintiff's functioning level. It is anticipated that, provided the plaintiff cooperates as expected, the assessment will be completed by or before the end of December, 2007. Mr. Gillis has agreed to execute necessary releases and consent forms to facilitate the September 28, 2007 meeting and the assessment.

¹ The defendants had previously produced records relating to the plaintiff for the period up to approximately July, 2005.

6. Counsel for the plaintiff and defendants believe that further progress is possible. The defendants, joined by the plaintiff, thus request that the Court amend its order to allow for the September 28, 2007 meeting, the completion of further assessment of the plaintiff and further discussions between the parties' representatives. If the order is not modified, the defendants will have to file a motion to dismiss or, in the alternative, for summary judgment by mid-October as directed by the Court at the July 26, 2007 status conference. The plaintiff will then have to focus on preparing an opposition to that motion. It is the parties' request that they be allowed to devote their time to pursuing the other matters outlined above in an effort to resolve this matter.

Respectfully submitted,

Robert Murphy, Kathleen Dennehy, and
Massachusetts Department of Correction,

NANCY ANKERS WHITE
Special Assistant Attorney General

By: /s/ Mary P. Murray
Mary P. Murray, Counsel (BBO # 555215)
Department of Correction
Massachusetts Treatment Center
30 Administration Road
Bridgewater, Massachusetts 02324
(508) 279-8184
(508) 279-8181 (fax)

Dated: September 14, 2007

Joined by Dominic DiModica

/s/ Jennifer A. Serafyn
Jennifer A. Serafyn (BBO # 653739)
Seyfarth Shaw LLP
World Trade Center East
Two Seaport Lane, Suite 300
Boston, MA 02110-2028

Certificate of Service

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on September 14, 2007.

/s/ Mary P. Murray
Mary P. Murray

Dated: September 14, 2007